

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DAVID REBEIRO,)
Plaintiff)
v.)
DAVID S. USHER, MARTIN W. NAREY)
PAUL M. KELLY, JAMES D. BRIANT,)
MICHAEL HIGGINS, HOLYOKE POLICE)
DEPARTMENT, DISTRICT ATTORNEY)
WILLIAM BENNETT, COMMONWEALTH OF)
MASSACHUSETTS and the CITY OF HOLYOKE,)
Defendants)

IN CLERK'S OFFICE
2006 OCT 12 P 1:52
U.S. DISTRICT COURT
DISTRICT OF MASS.

CIVIL ACTION
NO. 04-30201-KPN

**DEFENDANTS DAVID S. USHER, MARTIN W. NARY, JAMES D. BRIANT
AND THE CITY OF HOLYOKE'S PRETRIAL MEMORANDUM**

1. Statement of evidence: on July 12, 2004 at 0618 the Plaintiff was observed running across High Street in Holyoke from Sam's Convenience Store. The police dispatcher then reported an armed robbery at Sam's. The Plaintiff was pursued to 21 Worcester Place where he hid behind a motor vehicle. When approached the Plaintiff ran into the building at 21 Worcester Place. Pursuit entailed and Plaintiff was found on the third floor landing. A handgun, clothing and money were found. The Plaintiff was transported to Sam's and the clerk identified the Plaintiff as the person who robbed him. The Plaintiff was arrested for armed robbery while masked, carrying a firearm without a license and possession of ammunition without an FID card.

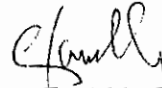
On May 4, 2005 the Plaintiff was found guilty of those charges after a jury-waived trial in Hampden Superior Court and sentenced to 10 to 11 years in state prison.

2. Statement of facts established by pleadings: Plaintiff claims that he was falsely arrested and that his civil rights were violated. Defendants claim that his arrest was justified and they were acting in good faith and with probable cause.
3. Contested issues are set forth in paragraph 2.
4. Defendants are not aware of any jurisdictional questions.
5. Defendants are not aware of any question raised by pending motions.

6. Defendants are not aware of any issues of law at this time.
7. Defendants do not have any requested amendments to pleadings.
8. Record of Plaintiff's conviction in state court on the charges for which he was arrested.
9. Defendants estimate a trial of two days. Defendants have claimed a jury trial.
10. Witnesses: David S. Usher, Martin W. Narey, Paul M. Kelly, James D. Briant, Michael Higgins c/o Holyoke Police Department, 138 Appleton Street, Holyoke, MA 01040 and Syed Masood, last known address 515 High Street, Holyoke, MA 01040.
11. Record of Plaintiff's conviction in state court on the charges for which he was arrested.

DATE: October 12, 2006

DAVID S. USHER, MARTIN W.
NAREY, JAMES D. BRIANT and
The CITY OF HOLYOKE

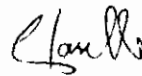


Charles P. Lavelle
BBO No. 288420
Staff Attorney
City of Holyoke Law Department
20 Korean Veterans Plaza
Holyoke, MA 01040
(413) 322-5580

CERTIFICATE OF SERVICE

I hereby certify that I have served on the date entered below a copy of the foregoing document by First Class Mail, postage prepaid to David Ribeiro No. W85454, P.O. Box 9106, Concord, MA 01742

DATE: October 12, 2006



Charles P. Lavelle